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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

10 HASAN CARTER, et al.,

11 Plaintiffs,

12 v.

13 CHRISTINE GREGOIRE, et al.,

14 Defendants.  
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CASE NO. C9-5393BHS

ORDER GRANTING  
PLAINTIFFS' MOTION FOR A  
TEMPORARY RESTRAINING  
ORDER

17 This matter comes before the Court on Plaintiff's Motion for a Temporary  
18 Restraining Order (Dkt. 4). The Court has considered the pleadings filed in support of and  
19 in opposition to the motion and the remainder of the file and hereby grants the motion for  
20 the reasons stated herein.

21 **I. FACTUAL AND PROCEDURAL BACKGROUND**

22 On June 29, 2009, Plaintiffs filed a complaint for injunctive and declaratory relief  
23 against Defendants. Dkt. 1 ("Complaint"). Plaintiffs also filed a Motion for Temporary  
24 Restraining Order. Dkt. 2. On June 30, 2009, Defendants responded (Dkt. 19) and  
25 Plaintiffs filed an additional Memorandum in support of their motion (Dkt. 22).  
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1 Plaintiffs allege that the Washington Legislature passed, and Governor Christine  
2 Gregoire signed into law, a statute that violates their federal constitutional rights.

3 Complaint, ¶¶ 35, 54. That law provides in relevant part as follows:

4 The [Washington Department of Social and Health Services (“DSHS”)]  
5 shall not pay a home care agency licensed under chapter 70.127 RCW for  
6 in-home personal care or respite services provided under this chapter, Title  
7 71A RCW, or chapter 74.39 RCW if the care is provided to a client by a  
family member of the client. To the extent permitted under federal law, the  
provisions of this subsection shall not apply if the family member of the  
family member providing care is older than the client.

8 Laws of 2009, ch. 571, § 1 (1)(a) (“SHB 2361”).

9 Defendants claim that:

10 The implementation of SHB 2361 will take time, because DSHS did  
11 not receive lists of all clients affected by the changes until June 30, 2009,  
12 and contacting each client, discussing their options, and executing IP  
13 contracts for family members will take additional time. Additionally,  
14 making changes effective the first of each month is less disruptive in terms  
of employee benefits. For these reasons SHB 2361 will be phased in over  
the months of July, August, and September 2009. We expect to complete  
the phase-in by September 1, 2009.

15 Dkt. 21, Declaration of Chris Imhoff, ¶ 22.

16 On July 1, 2009, the Court held a hearing on Plaintiffs’ motion. At the hearing,  
17 Defendants’ counsel confirmed that the first phase of SHB 2361 would not be  
18 implemented until August 1, 2009. After the hearing, Plaintiffs filed a Supplemental  
19 Brief Regarding Irreparable Harm Caused By Implementation of SHB 2361 on July 1,  
20 2009. Dkt. 25. The Court held a conference call regarding the contents of this brief.  
21 During the conference call, Defendants’ counsel informed the Court that implementation  
22 of SHB 2361 was occurring today.

23 On July 1, 2009, Plaintiffs filed a Motion for Preliminary Injunction. Dkt. 26.

## 24 II. DISCUSSION

25 To be entitled to temporary injunction relief, a plaintiff “must establish that he is  
26 likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence  
27 of preliminary relief, that the balance of equities tips in his favor, and that an injunction is  
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1 in the public interest.” *Winter v. Nat. Res. Def. Council*, \_\_\_ U.S. \_\_\_, 129 S. Ct. 365,  
2 374, 172 L. Ed. 2d 249 (2008).

3 In this case, Plaintiffs have shown that they are likely to succeed on the merits, that  
4 they are likely to suffer irreparable harm in the absence of preliminary relief, that the  
5 balance of equities tips in their favor, and that a temporary restraining order is in the  
6 public interest. Therefore, the Court grants Plaintiffs’ motion.

7 With regard to Plaintiffs’ Motion for a Preliminary Injunction, the Court sets the  
8 following briefing schedule:

9 Defendant’s response is due July 20, 2009

10 Plaintiffs’ reply is due July 24, 2009.


11 The Court will set a hearing on this motion for July 28, 2009 at 3:30 PM.

### 12 **III. ORDER**

13 Therefore, it is hereby

14 **ORDERED** that Plaintiff’s Motion for a Temporary Restraining Order (Dkt. 4) is  
15 **GRANTED**. The temporary restraining order shall expire on July 29, 2009, or as  
16 otherwise ordered by the Court.

17 DATED this 1<sup>st</sup> day of July, 2009.

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21 BENJAMIN H. SETTLE  
22 United States District Judge  
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